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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1983

No. _____

DONALD H. ALLEN and PEGGY P. ALLEN, *Petitioners,*

v.

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

PETITION FOR A WRIT OF CERIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

DONALD H. ALLEN,
PEGGY P. ALLEN
700 S.W. Fourth Place
Fort Lauderdale, FL 33312

Pro Se Petitioners

October 25, 1983

QUESTIONS PRESENTED

1. Whether, as this Court warned in *Crowell v. Benson*, 285 U.S. 22, and recently reiterated in *Northern Pipeline v. Marathon Pipe Line*, 102 S. Ct. 2858, "silent encroachments" (Madison) have established "a government of bureaucratic character alien to our system".[1] Do Executive Branch arbitration boards such as the Tax "Court" (26 USC 7441), under present composition and practices alien to our system, threaten Judiciary independence as well as the citizens' Consititutionally reserved rights?[2]

2. Whether the plain English of 5 USC 706's "whole record" mandate does not mean that an Article III Court must address both sides in a controversy between bureaucracy and citizens in order to meet at least the requirment of a fair and "meaningful" hearing.[3]

3. Whether the taxing authority of Congress, or any Executive Branch regulatory authority, lawful or assumed, may be used for suppression of political or religious dissent, or for any purpose beyond unequivocal mandates of Article II or equally unequivocal Legislative intent, explicitly, clearly and specifically stated in positive statute passed "in Pursuance" (Art. VI 2) of powers numerated in Article I; and whether any deviation from these strictures does not constitute violation of reserved rights, particularly but not exclusively, those of the First and Ninth Amendments, and violation of Constitutional injunction against Bills of Attainder (Art. I 9:3) or of Pains and Penalties which this

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[1] *Crowell*, at 57, emphasis added. This point is argued throughout the Allens' pleadings, but see, in particular, direct references in Petitioners' *Citation of Supplemental Authorities* filed January 27, 1989; Petitioners' *Reply Brief* filed on February 10, 1983; Petitioners' *Petition for Rehearing En Banc* filed on June 11, 1983; Petitioner's *Petition for Hearing En Banc Regarding the Still Unment Challenge to Jurisdiction, the Still Unaddressed Constitutional Violations, and Unexplained Direct Conflict with Earlier Circuit Decisions and Supreme Court Precedent.*

[2] See *The Federalist*, 78 through 82; citations in *Crowell, op.cit.* and *Marathon, op.cit.; U.S. v. Raddatz*, 447 U.S. 667, etc., etc.

[3] See *Arnett v. Kennedy*, 94 S. Ct. 1633; *Matthews v. Eldridge*, 424 U.S. 319 *Fuentes v. Shevin*, 407 U.S. 67; *Logan v. Zimmerman Brush*, 102 S. Ct. 1148 with citations; *Estelle v. Gamble*, 429 U.S. 97; *Hovey v. Elliott*, 167 U.S. 409 *Windsor v. McVeigh*, 93 U.S. 274; etc., etc. See also Petitioners' opening *Appeal Brief*, as well as throughout the Allens' pleadings.

Court equated in *Cummings v. Missouri*, 4 Wall 277.[4] Should not this Court's disapproval of "collateral" purpose expressed in *U.S. v. Calamaro*, 354 U.S. 351, etc., with regard to criminal activities apply certainly as stringently with regard to peaceful political and religious dissent? If indeed, it is dissent for which the Allens are **ENEMY LISTED**. And, if not dissent, for what purpose are they **ENEMY LISTED**? The Court's attention is called to testimony before a U.S. Senate Select Committee by former IRS Commissioner Donald Alexander in 1975 regarding similar **ENEMY LISTING** in which the Commissioner said he supposed Senator Montoya had been **ENEMY LISTED** merely because he chaired the Appropriations Subcommittee overseeing the IRS budget requests![5]

4. Whether a regulatory bureaucracy of the Executive Branch can be permitted to subject peaceful citizens to a Kafka-like nightmare, denied all explanation for such "intentional infliction of emotional distress" (*Smith v. Wade*, April 20, 1983) and thwarted for four years in every attempt to obtain **independent** investigation. Whether, as the insignificance of this case surely does not justify such measures, this massive **COVER-UP** conceals an evil secret of very broad impact, the very secrecy of which affects all citizens. Does this **COVER-UP** signal that government "**ALIEN** to our system" against which *Crowell* and *Marathon* warn?[6]

5. Whether pretense of civil process may be used to disguise criminal procedure, especially in order to circumvent injunctions securing citizens' reserved and civil rights, as indicated by this Court in *Boyd v. U.S.*, 116 U.S. 616, and other rulings; and whether such devious practice does not constitute invidious, impermissible discrimination against an

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[4] See, above all, *Cummings*, op.cit., but also *The Federalist*, 39, 78, 84; *U.S. v. Brown*, 331 U.S. 437; *U.S. v. Lovett*, 328 U.S. 303; *W. Virginia Board of Education v. Barnette*, 319 U.S. 624; etc. See also Petitioners' *Reply Brief* in particular, but the issue is argued throughout the Allens' pleadings, including the *Petition* to the Tax "Court."

[5] *Select Committee to Study Governemental Operations with Respect to Intelligence Activities*, U.S. Senate, 94th Congress, First Session October 2, 1975, page 30. Also see documentary evidence of **ENEMY LISTING** in IRS files released to the Allens through FOIPA and filed as exhibits and referred to throughout pleadings in the Tax Court and the Circuit Court. Attached in Appendix.

[6] See Note 5 re: documentary evidence of **ENEMY LISTING**.

economic class that must struggle in grossly disadvantaged *pro se* defense, although manoeuvred deceitfully into the plaintiff role, without legal experience, skills, resources, facilities or knowledge, vulnerable to sly entrapment into waiving rights, particularly those of due process and equal protection; and whether this subverted abuse of process is not also violation of injunction against Bills of Attainder.'

6. Whether unelected public servants in the Executive Branch, sworn to uphold the Constitution, can distort, manipulate, subvert, and change the meaning of critical terms and phrases, such as *income* and *voluntary*, in contumacious disdain of their oaths, rulings of this Court, and of Legislative intent; and whether such usurpious practice does not also imperil not only our Republican form of government but also the Judiciary independence crucial to the Constitution's balance of powers, as *Crowell (op.cit.)* and *Marathon (op.cit.)* warn. (See Petition for Hearing *En Banc*, pages 6, 7, 8, 9)

7. Whether in contumacious disregard of their oaths, this Court, Legislative intent and positive criminal law, public servants of the Executive Branch can, by libel, perjury, fraud, misrepresentation, extortion, duress, distraint, blackmail, jury tampering, mail interference, obstruction of justice, suborning of collusion, theft, terrorism and other totalitarian tactics "ALIEN to our system" subvert assessment and collection this Court has ruled voluntary (*Flora v. U.S.* 362 U.S. 145); and whether such subversion does not threaten the very foundation of our self-governing Republic, usurping Grantor sovereignity and purpose set forth in the Preamble, and blasting the Judiciary independence which is the keystone to a balance of powers intended by the

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[1] See particularly the *Cummings* Court's quotation from Alexander Hamilton, one of the Framers, regarding presumption of innocense, burden of proof, and inviolability of the jury system, and that "legislatures should at no time erect any new jurisdiction which should not proceed according to the course of common law ... nothing can be more repugnant." Quoted as well in the Allens' *Reply Brief* with comment "that it is Respondents themselves, as Alexander Hamilton warned, who are corrupting the nation and have incited the so-called 'Tax Revolt' ... imperiling our Republican form of government." See also *Societe Internationale v. Rogers*, 357 U.S. 197; *NAACP v. Button*, 371 U.S. 415; etc. And again, the documentary evidence of ENEMY LISTING in IRS files obtained through FOIPA.

Framers to protect the Republican form of government and the citizens' reserved rights. (See *U.S. v. Lee* 106 U.S. 196).

8. Whether there actually exists a conspiracy to provoke citizen violence, as has been charged in Congress and elsewhere, in order to justify more oppressive measures "**ALIEN** to our system," or whether the mounting list of grievances which duplicate but exceed in oppression those of the Declaration of Independence are attributable merely to short-sighted selfishness and greed of bureaucratic empire building, which nevertheless also threatens the Republican form of government.

INDEX

	Page
Questions Presented	i
Opinion below	1
Jurisdiction	1
Statutory Provisions Involved	2
Statement of the Case	5
Reasons for granting the writ	10
1. Error Is So Serious As To Constitute Fundamental Unfairness In the Proceedings and Invoke Supervisory Powers of This Court	10
2. The Decision Below Conflicts With the Decisions of the Parent 5th Circuit, With Other Circuits, and With Supreme Court Precedent	11
3. The Decision Below Raises Questions of Urgent National Significance	13
Conclusion	15
Appendix (attached with separate page index)	

CITATIONS

CASES:

Arnett v. Kennedy, 94 S. Ct. 1633	i
Boyd v. U.S., 116 U.S. 616	ii
Crowell v. Benson, 285 U.S. 22	i, ii, iii, iv
Cummings v. Missouri, 4 Wall 277	ii, iii, 4, 7, 12
Estelle v. Gamble, 167 U.S. 409	i
Flora v. U.S., 362 U.S. 145	iii
Fuentes v. Shevin, 407 U.S. 67	i
Hazel-Atlas v. Hartford Co., 322 U.S. 238	10
Helvering v. Taylor, 293 U.S. 507	11
Hovey v. Elliott, 167 U.S. 409	i
Logan v. Zimmerman Brush, 102 S. Ct. 1148	i
Lucia v. U.S., 474 F 2d 565	7, 8, 9, 11
Marchetti v. U.S., 390 U.S. 39	12
Matthews v. Eldridge, 424 U.S. 319	i
Miranda v. Arizona, 380 U.S. 436	10
NAACP v. Button, 371 U.S. 415	iii

Northern Pipeline v. Marathon Pipe Line, 102 S. Ct. 2858 ..... i, ii, iii, 4, 12
Nudd v. Burrows, 91 U.S. 426 12
Pizzarello v. U.S., 406 F 2d 579 11
Rutherford v. U.S., 702 F 2d 580 9
Shapiro v. Sec. of State, 499 F 2d 527 ..... 8, 11
Shapiro v. U.S., 335 U.S. 1 12
Sherar v. Cullen, 481 F 2d 945 5
Smith v. Wade, S. Ct., April 20, 1983 ii
Societe Internationale v. Rogers, 357 U.S. 197 iii
Tanner v. Little, 240 U.S. 360 8
Thompson v. Louisville, 362 U.S. 199 9
U.S. v. Bland, 458 F 2d 1 11
U.S. v. Brown, 331 U.S. 437 ii
U.S. v. Calamaro, 354 U.S. 351 ii
U.S. v. Lee, 106 U.S. 196 iv
U.S. v. Lovett, 328 U.S. 303 ii
U.S. v. Ponder, 444 F 2d 816 11
U.S. v. Raddatz, 447 U.S. 667 i
U.S. v. Throckmorton, 98 U.S. 61 12
West Virginia Board of Education v. Burnett, 319 U.S. 624 ii
Windsor v. McVeigh, 93 U.S. 274 i

UNITED STATES CONSTITUTION:
Preamble 4
Article I ..... i, 1
Article II i
Article III ..... i, 10
Article VI i
First Amendment ..... i, 1, 7
Ninth Amendment i
Sixteenth Amendment 14

STATUTES:
Freedom of Information Act (5 USC 552) 6, 11
Privacy Act (5 USC 552a) 5, 6, 11
5 USC 706 i
26 USC 7441 i
28 USC 2072 10
28 USC 2106 1

18 USC 2154 (1) 1
Civil Rights Act (42 USC 1983, 1985) 6

MISCELLANEOUS:
Declaration of Independence 5,13
The Federalist ..... i,ii
Congressional Record 6,8
Hearings, Intelligence Activities,
(Senate Resolution 21)
94th Congress, First Session, Vol. 3 ii

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COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

PETITION FOR A WRIT OF CERIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Petitioners, Donald H. Allen and Peggy P. Allen, respectfully request that a writ of certiorari issue to review the purported judgement and opinion of the United States Court of Appeals for the Eleventh Circuit alleged entered but not published on May 25, 1983.

OPINON BELOW

The purported opinion of the Court of Appeals appears in the Appendix.

JURISDICTION

The purported judgement of the Court of Appeals for the Eleventh Circuit was alleged entered but not published on May 25, 1983. A timely petition for rehearing *en banc* was alleged denied on August 3, 1983, and this petition for certiorari is filed within 90 days of that date. This Court's jurisdiction is invoked under Article I 9:3 and the First Amendment to the Constitition of the United States, 28 U.S.C. 2106 and 1254 (1).

STATUTORY PROVISIONS INVOLVED

U.S. Constitution:

(Please note that it is the **application** of 26 USC that is challenged as violative of the following provisions).

Preamble: **WE THE PEOPLE** in order to ... establish **justice** ... and secure the blessings of **liberty** to ourselves and our posterity, do ordain and establish this Constitution.

Article I:1: **All** legislative powers **herein** granted shall be vested in a Congress... .

Article I:2:3: Representatives and **direct** taxes shall be **apportioned among the several states** which may be included within this union, **according to their respective numbers**...

Article I:8:1: The **Congress** shall have power to lay and collect taxes, duties, imposts and excises...

Article I:8:12: To raise and support armies but no appropriation of money to that use shall be for a longer term than **two years.**

Article I:8:18: To make all laws which shall be **necessary and proper** for carrying into execution the **FOREGOING** powers, and all other powers **VESTED BY THIS CONSTITUTION** in the government of the United States, or in any department or officer thereof.

Article I:9:2: The privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion the public safety may require it.

Article I:9:3: **NO BILL OF ATTAINDER** ... shall be passed.

Article I:9:4: **NO CAPITATION, OR OTHER DIRECT TAX SHALL BE LAID UNLESS IN PROPORTION TO THE CENSUS OR ENUMERATION HEREINBEFORE DIRECTED TO BE TAKEN.**

Article III:1: The **judicial** power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges **both** of the supreme and inferior courts shall **hold their offices during good behavior**...

Article III:2: The judicial power shall extend to **all** cases, in law and equity, arising under this Constitution, the Laws of the United States ... to controversies to which the

United States shall be a party...

Article VI:1: All ... engagements entered into, before adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

Article VI:2: This Constitution, and the Laws of the United States, which shall be made **IN PURSUANCE THEREOF** ... shall be the **SUPREME LAW OF THE LAND**; and the judges in every state shall be **bound** thereby...

Article VI:3: ...All executive and judicial officers, both of the United States and of the several states, shall be **BOUND BY OATH OR AFFIRMATION TO SUPPORT THIS CONSTITUTION.**

Amendment I: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment IV: The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon **probably cause, supported by oath or affirmation.**

Amendment V: No person ... shall be compelled ... to be a witness against himself, nor be deprived of life, liberty or property **WITHOUT DUE PROCESS OF LAW**, nor shall private property be taken for public use without just compensation.

Amendment VI: In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury ... and **to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses...**

Amendment VII: In suits at common law, where the value in controversy shall exceed twenty dollars, the **right of trial by jury shall be preserved...**

Amendment VIII: ...nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX: **THE ENUMERATION IN THE CON-**

STITUTION OF CERTAIN RIGHTS SHALL NOT BE CONSTRUED TO DENY OR DISPARAGE OTHERS RETAINED BY THE PEOPLE.

Amendment X: The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

Amendment XIII: Neither slavery nor **INVOLUNTARY SERVITUDE**, except as a punishment for crime whereof the party shall have been **duly convicted**, shall exist within the United States.

Amendment XVI: The Congress shall have power to lay and collect taxes on incomes, **(COMMA!) FROM** whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

5 USCS § 706. Scope of review

To the extent necessary to decision and law when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to consitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title [5 USCS §§ 556 and 557] or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall re-

view the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Sept. 6, 1966, P.L. 89-554, § 1, 80 Stat. 393.)

STATEMENT OF THE CASE

Petitioners, the Allens, voluntarily self-assessed, filed, and paid in timely fashion "1040 returns" for 1977.

Until unwarranted attack by IRS, the Allens were not involved in any "tax protest" movement or even more than vaguely aware there was a "tax protest" movement. They have never been in any way involved with organized crime and most certainly never a national security risk to the United States.

The Allens' suspicions were first aroused by puzzling veiled threats from IRS Agent Thomas in a requested phone call to her made by Peggy Allen promptly upon receipt of audit notice in April, 1979. On several earlier occasions, IRS questioning of returns had been settled by phone call, some of them in the Allens' favor, and always pleasantly.

But suspicions were intensified by accidental discovery of attempted concealment of the required Privacy Act Notice on the **back** of the sheaf of papers. Lengthy correspondence insued. IRS refused to comply with the Privacy Act or explain refusal, but engaged in evasion, misrepresentation, out-right falsehood and, presumably libel to Members of Congress to deflect inquiry.

On wholly arbitrary, erroneous, fictitious and unsubstantiated figures, IRS issued a "90 day letter", still never having complied with the Privacy Act or explained their refusal to do so. The Allens initiated administrative procedures to obtain their files.

Threatened with the "untenable position" (*Sherar v. Cullen*, 481 F 2d 945, a case analogous to this, as Sherar was also obviously **ENEMY LISTED**) of a merchant offered Mob "protection" by an Enforcer, and naively deceived that the mis-named Tax "Court" operated according to American traditions of justice, the Allens petitioned in November, 1979, **raising the same issues raised here and throughout this litigation, but everywhere IGNORED.** (The Allens'

Petition to the Tax "Court" was filed with Record Excerpts at the 11th Circuit).

Meanwhile, the Allens obtained evidence of **ENEMY LISTING** in IRS files released to them through FOIPA. They filed in District Court at Fort Lauderdale for release of other papers IRS admitted withholding. Shocked by their own experience, particularly by the evasion, deceit, fraud, misrepresentation, **COVER-UP**, and other misconduct, presumably including libel, Peggy Allen began journalistic investigation of the agency, publishing her findings which disclosed outrageous nationwide IRS abuses. Moreover, research in official documents, such as *Congressional Record*, revealed a long-standing pattern of such abuses repeatedly investigated and denounced over decades and under administrations of both parties. (See in particular Petitioners' opening *Appeal Brief*, pages 5 through 10).

Additionally, from long-time former IRS intelligence agents, now retired, Peggy Allen obtained translation of the bureaucratic symbols in the released files. These documents show that the attack on the Allens was initiated in the Criminal Division, that it was made in a form of their name which they have never used in communications with IRS and with the **WRONG** zip code. This indicates that the request for **ENEMY LISTING** may have come from outside IRS. It proves that it could not possibly have resulted from a routine computer pop-out, thus unequivocably establishes that it was **SELECTIVE**, hence in violation of injunction against Bills of Attainder and the right to equal protection.

Handwritten notations on the documents — "**pink envelope**" — refer to law enforcement color code for classified handling, in the past most frequently used for Organized Crime and national security risk cases. (Xerox of a sample "pink envelope" and of the documents are filed in the Tax "Court" record, the 11th Circuit Record Exerpts, and in three FOIPA-Civil Rights cases pending in the U.S. District Court at Fort Lauderdale, As released by IRS to the Allens, they were of poor quality duplication and subsequent duplicating has not improved them. See Appendix.)

Additionally, these documents show:

1) By handwritten notation on one that IRS sought to

get the Allens by any means. Judicial attention is called here to the fact that even former IRS Commissioners have admitted to Congress that complexity and obscurity of the Code permit "error" to be "found" on almost any targeted return. In other words, anybody can be framed on his own return.

2) That a paid informant was used. And although the document is stamped "mandatory review" there is no evidence whatsoever that the informant or his/her information was independently checked as required (see Appeal Brief, pages 14, 15). This practice exposes all citizens to the possibility that anyone who may not like the color of your skin or eyes or your religion or politics, or for personal grudge or even imaginary slight, or merely for payment of the bounty money, could "inform" to IRS, however falsely, and IRS would launch a vendetta.

3) That the alleged "deficiency" was conjured "Mandrake-like" (*Lucia v. U.S.*, 474 F 2d 565, 5th C. 1978) without even a "filament" *(Lucia)* of substantiation. On the contrary, a statement attached to the returns when filed, proves this Mandrake-like speculation is "clearly erroneous."

Although the **ENEMY LISTING** may have been requested from outside IRS, it soon became an IRS vendetta, probably because of Peggy Allen's articles exposing IRS abuses, and her complaints to Congress. But as asked more broadly *supra*, may the taxing authority be used in violation of First Amendment Rights to Petition and Freedom of Press, or for personal or agency spite? (See *Appeal Brief*, page 12) Although this Petition is confined to the attack regarding 1977, the persecution has continued and still continues.

The "**alien**" Star Chamber Inquisition (Inquisition is also Alexander Hamilton's term, as quoted in *Cummings op.cit.*) of the Tax "Court" failed to address issues of the Petition and denied all possibility of defense, all due process: jury trial, right to face accusers and call witnesses, CLAIMED 5th Amendment RIGHTS, right to obtain responses to interrogatories, etc. etc. Ignoring Peggy Allen's sworn testimony, the affidavits, the return itself, TWO BOXES

OF DOCUMENTATION (about which the subsequent Tax "Court" decision LIED, as can be proved by the transcript); the Petition, and the **ENEMY LIST** evidence ("collateral" purpose, fruit of the poisoned tree). Instead the Tax "Court" accepted obvious evasions and equivocation of IRS attorneys demonstrated by the transcript, and the demonstrable perjury of IRS attorney Gilson, impeachable by the evidence, and returned a "judgement by speculation" (*Tanner v. Little* 240 U.S. 360) lacking even *Lucia's* "Mandrake-like filament," much less the mandate of *Shapiro v. Sec. of State* 499 F2 527.

As the released documents show, a fictitious figure was conjured up for rentals, arbitrarily and erroneously multiplied by three and then by 12. This speculation from Agent Thomas' imagination was then augmented in willful bad faith and malice by blanket disallowance of all deductions. Congressional Records of debates and committee hearings regarding Internal Revenue legislation show *gross income* to be the remainder obtained by subtracting the aggregate of costs and losses from the aggregate of receipts over a year. As such deductions are integral to the necessary computation, they cannot be construed as "legislative grace" as perhaps, allowances for dependants might be. This demonstrates IRS trickery and deceitful manipulations.

The Allens appealed to the 11th Circuit in December 1982, and subsequently filed *Citation of Supplemental Authorities* on Jaunary 27, 1983, and *Petitioners' Reply Brief* on February 10, 1983. Scandalous clerical improprieties which have plagued the case resulted in much junketing about of the record, which, as supplied by the Tax "Court" was and still is deficient. Finally, March 18, 1983, the Allens filed Record Excerpts supplying some of the documents that had been withheld by IRS apparently in furtherance of their **COVER-UP** and/or to obstruct justice. March 19, 1983, the Allens filed an itemized list of the contents of the Record Excerpts in hope of preventing further improprieties. But the Record is still deficient.

The unsigned purported decision which is the subject of Petition for Certiorari was alleged filed May 25, 1983. It was rubber stamped not to be published and across the covering

page bore an obvious erasure-type smear such as appears on xerox of hastily applied "white-out." As had the Tax "Court" decision, it totally ignored all the Allens' pleadings and evidence. The Allens do not believe any judge has seen any of their pleadings or evidence. Alleged decisions of both the Tax "Court" and the Appelate appear by style and content to have been composed by IRS attorneys in Miami (See *Petition for Rehearing En Banc* "Authorities in Conflict.")

On June 11, 1983, the Allens filed timely *Petition for Rehearing En Banc* calling the Circuit's attention that "Constitutional claims are substantial not frivolous." (*Thompson v. Louisville*, 362 U.S. 199). They furthermore reiterated their assertion that *Marathon* confirmed "the dispositive issue has been authoritatively settled." They pointed out that the purported decision is in direct conflict with decisions of the parent 5th Circuit — notably those of the *en banc Lucia* class *(op.cit.)*, as well as decisions of other Circuits and with Supreme Court precedent. Moreover, the Circuit had ignored th Allens' request for oral hearing sought in order for the judges themselves to determine Peggy Allen's "credibility" which the perjurous IRS attorneys, themselves impeachable on the evidence, had impugned. This, as subsequent petitions to appear personally, was also ignored.

August 13, 1983, the Allens filed a Petition for *Hearing En Banc Regarding the Still Unmet Challenge to Jurisdiction, the Still Unaddressed Consititutional Violations, and Unexplained Direct Conflicts with Earlier Circuit Decisions and Supreme Court Precedent.* This also was allegedly denied.

The Allens argued: "The Circuit has so totally ignored the gravamen of this case, that Petitioners must suspect continued clerical improprieties denied the judges opportunity to review **THE WHOLE RECORD** as mandated by 5 USC 706. This suspicion is further strengthened by the fact that the covering letter forwarding the purported decision is signed by a public servant shown guilty of improprieties earlier in the case."

Judicial attention was drawn to an April 1983 decision by the parent 5th in *Rutherford v. U.S.*, 702 F 2d 580, in

which the lower court ruling was reversed and remanded for failure to address Constitutional violations.

August 19, 1983, the Allens filed a *Motion for Relief from Purported Order for Fraud, Misrepresentation, and other Misconduct and for Fraud upon the Court.* Twice the Clerk returned this on the specious pretext that Rule 60 (b) (3) was FRCivP. The Allens sent it back, pointing out that the controlling case was *Hazel-Atlas v. Hartford Co.*, 322 U.S. 238, in which this Court had ordered the CIRCUIT to vacate, ruling that it was the Circuit's duty and power. The Allens last returned this Motion September 18, 1983 with a covering letter to the Clerk pointing out that the Congress in 28 USC 2072 specifically prohibited abridgement of substantive rights by rule-making as did this Court in *Miranda v. Arizona*, 380 U.S. 436. Petition, of course, is a substantive right as are others raised in the case. This was sent certified No. P 410 094 735 and a green card received but no acknowledgment. However, hanky-panky with mail, including certified mail, as the Allens have documented and as others have reported in Congressional hearings, is suspected of being a collusory device IRS appears able to suborn. The *Motion for Fraud* is in the Appendix.

Meanwhile, so alarming was the obstruction of justice denying the Allens access to Article III Court or any "meaningful" hearing, so impenetrable the Iron Curtain COVER-UP thwarting four year's attempts to obtain INDEPENDENT investigation through the other two branches, that Peggy Allen appealed to the Conference's Judicial Conduct Committee on August 20, 1983. Informed that protocol required appeal to the Circuit Council, September 3, 1983, she directed to Chief Judge Godbold a *Formal Complaint and Request for Investigation Regarding Improprieties Which May Involve Suborning of Collusion in Obstruction of Justice.* Two additions followed, September 7 and September 18. None have even been acknowledged. The complaints are in the Appendix.

REASONS FOR GRANTING THE WRIT

1. **Error is so serious as to constitute fundamental unfairness in the proceedings and invoke supervisory powers**

of this Court. (See STATEMENT OF THE CASE, *supra.*)

2. **The Decision below conflicts with the decisions of the parent 5th Circuit, with other Circuits and with Supreme Court precedent.**

Conflict has already been mentioned *supra* with a whole class of cases stemming from the *en banc* decision in *Lucia (op.cit.)*. This, in turn, had adopted the decision in *Pizzarello v. U.S.*, 408 F 2d 579: "Presumption is not evidence and disappears." As most of the litigants in these cases are bookies, gamblers, dopesters, a reputed Mob "mouthpiece", it is pertinent to ask whether there is different and unequal justice for such than for "an elderly couple of modest means."

Shapiro (op.cit.) as quoted in Petitioners' *Appeal Brief*, page 9, 10, is pertinent: "Internal Revenue Service cannot prevail on a deficiency assessment ... when the asserted claim is entirely excessive, arbitrary, capricious, and without factual foundation ... The Court must obtain some evidence by which to judge whether the asserted deficiency was a tax or was as arbitrary and excessive as to be an extraction in the guise of a tax."

The IRS files released through FOIPA, which the Circuit **COMPLETELY IGNORED** prove that IRS "Mandrake-like" conjuring was "entirely excessive, arbitrary, capricious, and without factual foundation." The documents, furthermore, show **ENEMY LISTING** and handwritten instruction to try any method to get the Allens, demonstrating bad faith "**COLLATERAL**" purpose, thus "wrongful," and demolishing any "presumption of correctness." Further, the **ENEMY LISTING** is "new matter" (*Helvering v. Taylor*, 293 U.S. 507), requiring consideration of the "totality of the circumstances" (*U.S. v. Bland*, 458 F 2d 1), and the "entire record" (*U.S. v. Ponder*, 444 F 2d 816).[1]

Moreover, as the transcript shows, IRS tried to make a deal! This proves that not only were their figures arbitrary and erroneous; IRS knew they were!

The allegation that the Allens were subject to Tax

[1] See *Petition for Hearing En Banc*, page 8, and further citations there. *Appeal Brief*, pages 36-45.

"Court" jurisdiction by filing Petition fails by **FRAUD**. They were fraudulently enticed into filing by the blackmail threat similar to that of a Mob Enforcer offering "protection." (*Nudd v. Burrows*, 91 U.S. 426; *U.S. v. Throckmorton*, 98 U.S. 61 etc.; *Appeal Brief*, pages 19 through 35, and 40, 41 with citations therein, and argument relating to *Marathon* in all subsequent pleadings; *Petition For Hearing En Banc* page 8, 9; *Petition For Hearing Regarding the Still Unmet Challenge to Jurisdiction*, Page 4, 5, and citations in all these.)

The purported decision's statement that the Tax Court transcript was "examined thoroughly" is so incredibly astounding as to provide the major reason why Petitioners are persuaded no judge has seen any of the record. Un-American procedure "**ALIEN** to our system" throughout this Star Chamber session was shocking. Peggy Allen has covered hundreds of trials in this country and sufficient ones abroad, including some celebrated ones, to recognize how and why our judicial system differs from others. The Tax "Court" emphatically is "**ALIEN** to our system." (see reference *supra* to Hamilton in *Cummings op.cit.* for just one example).

With regard to the purported decision's footnote comment on records, IRS instructions and Court rulings say, when records are required, they should be kept in the manner usual to the taxpayer. For at least a half century Peggy Allen's record keeping has been by checkbook stub. Unfortunately, corruption in bureaucracy has so corrupted the populace that checks are no longer a convenience to the user and few who have lived in South Florida want to accept checks. The Allens also have been stung.

More pertinently, records are not even required for alleged crooks (*Marchetti v. U.S.*, 390 U.S. 39 at 57). Not even by the stretch of IRS's acrobatic semantics would the Allens' records meet the tests of *Shapiro v. U.S.*, 335 U.S. 1. Furthermore, under blackmail threat and coercion in violation of CLAIMED Fifth Amendment rights, (see transcript), the Allens did show all records — two boxes full, as proved by the transcript. The claim of "negligence" is not only ludicrous but violative of injunction against involuntary servi-

tude. The whole question of slavery — UNREIMBURSED labor and time demanded by bureaucrats — is one ripe for this Court's examination, as it is certainly a major cause not only of the so-called Tax Revolt but of the Nation's economic crisis.

3. **The Decision Below Raises Questions of Urgent National Significance.**

Of itself, this is a piddling little insignificant case. It is at enormous sacrifice and self-deprivation that Petitioners have pursued it through four years of a Kafka nightmare and now seek to bring it before this Court whose independence was established by the Constitution as the key weight the Framers sought for the balance of powers they believed best assured liberty and justice for all. This Court asserted that balance in a salutory decision last term which recalled the Legislative Branch from overlaxity and neglect of duty. But the "congressional veto" ruling was only a scratch at the surface of the much larger problem represented by this seemingly insignificant little case.

It is fervently prayed that the Court will again assert that balance to recall the Congress from worse laxity resulting in a crisis which Justice Rehnquist is quoted as warning could bring civil war. Petitioners share Justice Rehnquist's alarm.

Taxation is but a symbol as it was two centuries ago. This otherwise insignificant case could serve as a sample, a microcosm of the problem on which this designedly aloof Court could focus detached judgement, and, it is prayed, save this Republic.

This nation was born of tax protest. The men who rioted in New York in 1765, who dumped the tea in Boston harbor, who fought at Lexington and Concord, who signed the Declaration of Independence, were tax protestors. A reading of that Declaration now shows that the people today are protesting exactly the same grievances; they, as their forebearers, are refusing to finance their own enslavement and destruction. As the Signers recognized, "*mankind are more disposed to suffer while Evils are sufferable.*" But there comes a breaking point "*when a long Train of Abuses and*

Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism." That breaking point was reached in 1776. As Justice Rehnquist warned, it is being reached again.

The problem is Big Government, wasteful, parasitic government, despotic government, exactly the kind of government the Framers hoped to prevent for all posterity. The admonitory legacy for all ever on this Court's bench from the great Chief Justice John Marshall was that you never forget that it is a Constitution you are expounding. That Constitution was framed by tax protestors. Marshall also said that "the power to tax involves the power to destroy." Acutely aware of that danger, the Framers placed careful limitations on the taxing authority. This Court has ruled that those provisions were not changed or expanded by the 16th Amendment. And significantly, the 16th Amendment contains no enforcement clause.

The problem now, so like that of two centuries ago, is Executive Branch regulatory agencies out of control and a profligate and irresponsible Legislative Branch, both as unresponsive to the people as were George III and Parliament. Hoping to correct this evil, the Framers departed from the English model and created a third Branch, an INDEPENDENT Judiciary, as check and balance against the other two. Exercise of that check and balance is so urgently needed now that it may be the only hope of **peaceful** resolution instead of the more and greater violence that Justice Rehnquist and Petitioners fear.

This otherwise insignificant little case provides many aspects useful to broad exploration of the problem. Petitioners paid taxes; they were not "tax protestors" when unjustly attacked. They are of an economic class poorly equiped, if at all, against such attack, and hence seemingly easy prey for deliberate subversion or the "quota system" of bureaucratic greed. But cliche or not, that class is the backbone of America — the peaceful, productive, self-reliant, hard-working citizens who converted a wilderness into the most powerful nation on earth. Destruction of that class is destruction of the Republic, as any glance at history or around the contemporary world makes irrefutably plain.

The fact that it is that class that appears to be the major target of attack "**ALIEN** to our system" does alarmingly suggest seditious intent to overthrow our Republican form of government. The massiveness of **COVER-UP** supports this suggestion. Perhaps never before in our history has so grave a problem been given this Court, but it is the problem this Court was most particularly created to resolve, the preservation of the Republic.

CONCLUSION

Therefore, the Allens request this Court to grant them the "meaningful" hearing they have been unlawfully, wrongfully, and unjustly denied.

Respectfully submitted,

Donald H. Allen
Peggy P. Allen
700 S.W. Fourth Place
Fort Lauderdale, FL 33312

Petitioners Pro Se

APPENDIX INDEX

	Page
Purported 11th Circuit Order, May, 25, 1983	A-1
IRS file papers released through FOIPA, showing ENEMY LISTING and "naked assessment". (Petitioners' Exhibit I)	A-13
Petitioners' *Motion for Relief from Purported Order for Fraud, Misrepresentation, and Other Misconduct and for Fraud Upon the Court.* (Petitioners' Exhibit II)	A-22
Letter to Judge Godbold September 3, 1983: *Formal Complaint and Request for Judicial Council Investigation Regarding Improprieties Which May Involve Suborning of Collusion in Obstruction of Justice.* (Petitioners' Exhibit III)	A-40
Relevant news clippings: (Petitioners' Exhibit IV)	A-49
Letter to Judge Godbold September 7, 1983: *Additional Evidence for Formal Complaint To Judicial Council.* (Petitioners' Exhibit V)	A-53
Letter to Judge Godbold September 16, 1983 *Still Further Evidence for Formal Complaint to Judicial Council.* (Petitioners' Exhibit VI)	A-56

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

NO. 82-5863
Non-Argument Calendar

DONALD H. ALLEN
and
PEGGY P. ALLEN,

Petitioners-Appellants,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellee.

Appeal from the United States Tax Court

(May 25, 1983)

Before GODBOLD, Chief Judge, FAY and CLARK, Circuit Judges.

PER CURIAM:

Donald H. Allen and Peggy Poor Allen (The "taxpayers") appeal the decision of the United States Tax Court, holding them liable for a deficiency of $2,869 in their 1979 taxes. The Tax Court, pursuant to 26 U.S.C. Section 6653(a), also penalized the taxpayers $143 for their negligence or intentional disregard for the tax rules and regulations. After reviewing the record, we find no error in the Tax Court's findings and affirm the Court's deficiency determination in its entirety.

The relevant facts may be summarized as follows: The taxpayers, who are husband and wife, filed a joint federal income tax return for the year 1977. On October 2, 1979, the Commissioner of Internal Revenue (the "Commissioner") issued a statutory notice to taxpayers, determining a deficiency of $4,234 in their federal income taxes for that year,

and a $212 addition to the tax attributable to their negligence or intentional disregard for the tax rules and regulations.

The Commissioner's deficiency determination arose from several adjustments to the taxpayers' return. First, taxpayers during 1977 held out three rooms of their eight-room house for rental purposes, and the Commissioner determined that they understated the rental income therefrom by $4,350. The Commissioner also denied in part taxpayers' claimed deductions for expenses associated with renting the property, their claimed depreciation for the rental property, and certain deductions claimed to have been incurred in connection with Mrs. Allen's writing activities and Mr. Allen's sales business. Finally, the Commissioner determined that because Mrs.

Allen was engaged in the trade or business of writing, she was subject to the tax on self-employed income as provided in Sections 1401 and 1402 of the Internal Revenue Code of 1954.

Taxpayers challenged these determinations in a petition to the Tax Court, and a trial was held on June 12, 1981. Based on the evidence adduced at trial by the taxpayers, the Tax Court reduced the Commissioner's determination of rental income to $6,600. 1 The Court also weighed the evidence and allowed $2,402 of the $3,878 rental expenses claimed. Similarly, the Tax Court allowed $263 of the claimed depreciation of $2,179 on the rental property, $767 of the claimed $2,992 expense of Mrs. Allen's journalism business, and $150 of the claimed $675 mileage expense of Mr. Allen's sales business. The Court upheld

the Commissioner's determination that Mrs. Allen was subject to the tax on self-employment income. Finally, the Court upheld the addition to the tax determined under Section 6653(a) of the Internal Revenue Code for taxpayers' negligence or intentional disregard of the tax rules and regulations. The Court noted that taxpayers had ignored the record-keeping requirements imposed upon them by Section 6001 of the Code, and that they had made no attempt to carry their burden of showing that their underpayment of taxes was not due to negligence or disregard of the tax laws.

The Tax Court, accordingly, redetermined the deficiency in the taxpayers' taxes to be $2,869. From that decision, the taxpayers appealed.

DISCUSSION

The appellants' first challenge the Tax Court's jurisdiction to adjudicate the correctness of the tax deficiency determined by the Commissioner of Internal Revenue. The tax Court clearly possessed jurisdiction to adjudicate this matter and to redetermine the deficiency in the appellants' taxes. The jurisdiction was conferred by the appellants' own election to file a petition with the Tax Court pursuant to 26 U.S.C. Section 6213 (1976), which provides: "after the notice of deficiency [is mailed by the Secretary to the taxpayer . . . the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency." Once the petition was filed by the appellants, 26 U.S.C. Section 6214 makes clear that "the Tax Court [had] . . .jurisdiction to redetermine the correct amount of the

deficiency even if the amount so redetermined is greater than the amount of the deficiency. . ."

The appellants' contention that the Tax Court erred in requiring them to carry the burden of disproving the Commissioner's deficiency determination is also unavailing. The courts have consistently held that "where the [Internal Revenue] Service has determined that a taxpayer owes a deficiency, '[t]he presumption of correctness that follows the deficiency notice places the burden on the taxpayer of establishing all matters necessary to show that it does not owe the taxes in question.'" Group Life 'Health Ins. Co. v. United States, 660 F.2d 1042, 1050 (5th Cir. 1981), citing Southwestern Life Insurance Co. v. U.S. 560 F.2d 627 (5th Cir. 1977); Helvering v. Taylor, 293 U.S. 507, 55 S.Ct. 287, 79

L.Ed. 623 (1935).

The appellants next argue that the Tax Court's redetermination of the deficiency in their taxes was erroneous and contrary to the evidence. We first note the appropriate standards of review. In the Tax Court, the Commissioner's determination carries a presumption of correctness, see Carson v. United States, 560 F.2d 693, 695-96 (5th Cir. 1977), and the taxpayer has the burden of proving by a preponderance of the evidence that such determination was erroneous. See United States v. Janis, 428 U.S. 433, 96 S.Ct. 3021, 3025, 49 L.Ed.2d 1046 (1976); Bar L. Ranch, Inc. v. Phinney, 426 F.2d 995 (5th Cir. 1970). On appeal, our scope of review is limited by the general principle that all findings of facts made by the Tax Court and all inferences drawn by it from these facts are binding on the

appellate courts unless "clearly erroneous." Laney v. Commissioner of Internal Revenue, 674 F.2d 342, 345 (5th Cir. 1982) ("[t]he Tax Court's findings of fact, like those of a District Court, are subject to the 'clearly erroneous' test. F. R. Civ. P. 52(a)"); Commissioner v. Duberstein, 363 U.S. 278, 291, 80 S.Ct. 1190, 1200, 4 L.Ed.2d 1228 (1960); 26 U.S.C. Section 7482(a). In the instant case, the appellants have failed to demonstrate any error in the Tax Court's findings. The only finding challenged by appellants worth mentioning relates to the income attributed to their rental of rooms. The appellants argue on appeal that their tax return and Mrs. Allen's trial testimony showed that the rental property was located in a "rundown" neighborhood, that two of the rooms were vacant during most of 1977, and that they

never received rental income as high as $200 per room during that year. After reviewing the record, we find that the appellants' statements concerning their rental property on their tax return and Mrs. Allen's trial testimony do not support these assertions.2 More important, the appellants did not proffer any evidence concerning the precise number of months of occupation of the rooms or the rental amounts. In the absence of such evidence, the Tax Court was justified in accepting, and indeed slightly reducing (on the basis of its finding that each room might have been vacant for one month), the Commissioner's determination on the rental income issue.

Finally, the appellants maintain that almost every facet of the Tax Court's conduct of the proceedings below amounted to a denial of their rights to "due

process and all protections under the Constitution." Appellant's Brief at 45. We have examined thoroughly the record of the Tax Court proceedings and find no infringement of appellants' constitutional rights.

We have considered all of the contentions raised on appeal by the appellants, including those not mentioned, and find them to be without merit. The decision of the Tax Court is AFFIRMED.

FOOTNOTE

1. As to the rental income, the taxpayers had declared $2,850 on their return as rent received, but due to insufficient rental records the Commissioner determined that the taxpayers had received $7,200 during the year in rental income, at $200 per room per month for the entire year.

2. Although Mrs. Allen testified that the house was constructed in 1946 (Tr. 42), the record contains no physical description of the structure except that it was equipped with a swimming pool and deck, and that it was "landscaped". Mrs. Allen stated the address (Tr. 42), but did not provide any description of the

neighborhood. As to the number of rooms rented and rental charge during the year, Mrs. Allen at various points in her testimony declined to provide such information on self-incrimination or "privacy" grounds. (Tr. 19, 23-24, 28). She specifically stated that she did not remember how many rooms were rented at any particular time (Tr. 19), how large the rented rooms were (Tr. 43-44), or even what rents were charged (Tr. 29). We agree with the government that where, as here, the rental income was received entirely in cash, was never deposited into a bank account, and no records whatsoever were maintained with respect to the rental of the rooms (Tr. 120-29), the Tax Court was fully justified in rejecting Mrs. Allen's uncorroborated testimony that taxpayers' return correctly reflected the amount of rental income they received during 1977.

To be opened by addressee only

Re:

- ☐ O.C.D.
- ☐ Sensitive
- ☐ Other

SAMPLE "PINK ENVELOPE". REVERSE SIDE ALSO WARNS: " TO BE OPENED BY ADDRESSEE ONLY".

TAX RETURNS
FICATION CHECK SHEET

FORM ☐ 1040 ☐ 1120 ☐ 1041 ☐ 1065 ☐

☐ AUTOMATIC

PART I - CLASSIFICATION *(To be checked by Classifier or Group Manager)*

Classifier will check those items which in his opinion require adjustment or explanation. Group Manager ems which appear to require adjustment or explanation.

ITEM	REASONS FOR SELECTION BY CLSFR.	REASONS FOR SELECTION BY GP. MGR.	REMARKS
. Gross or net profit out of line			See attached
. Deferred income			info. item + 21
. Capital transactions			
. Cost of Sales (Inventories)			
. Installment sales			
. Excluded or exempt income			
. Annuities			
. Salaries and bonuses			
. Other			
. Travel and entertainment			
. Repairs and capital expenditures			
. Officer's salaries			
. Net operating loss			
. Bad debts			
. Business losses			
. Itemized deductions			☐ CONT. ☐ TAXES ☐ LOSSES ☐ MISC. ☐ INT. ☐ MED. ☐ CHILD CARE
. Other			
. Exemptions			
. Rents and royalties			
. Distribution of income			
. Credits			
. Balance sheet and/or surplus items			
. Improper accumulation of surplus			
. Other			

"211" SIGNIFIES AN INFORMANT.

OCT 05 '7

PART II - ASSIGNMENT AND CARDING INSTRUCTIONS

	POST OF DUTY	GROUP	

LS	DATE 1/18/79	EXAMINER'S INITIALS	DATE

22 (Rev. 8-73) *Dispose of all prior issues.*

Department of the T
Internal Revenue Se

EIN-SSN	V.D.	DISTRICT	MFT	TAX PERIOD	UPDATE CYCLE	
552-28-0253	0	59	30	ENDING 75-12 thru 77-12 BEGINNING (Certain RMF)		☒ ORIGINAL REQUEST 0259 ☐ SECOND REQUEST ☐ EXPEDITE

TAXPAYER'S NAME AND ADDRESS

DON & PEGGY ALLEN
700 SW 4TH PL
FT LAUDERDALE, FL 33301

4. SOURCE

11-9

1. REQUESTER ~~Chief, Criminal Investigation Staff~~
2. STOP NO. ~~Atlanta Service Center~~
3. DATE ~~Stop 75~~

NAME FORM NEVER USED WITH IRS. ZIP CODE WRONG. NOTE: " REQUESTED BY CHIEF, CRIMINAL INVESTIGATION STAFF."

AME

CONTROL

☐ ADDRESS
☐ SPOUSE'S SSN

☐ OTHER (SPECIFY)

51 0 0 DONALD H & PEGGY POOR ALLEN	2 0000	846	052074	6.00	7320	59211-111-80283-3	
774		150			7419	59221-110-00900-4	
	7312	152			7419S	59221-110-00900-4	.00
		150	052074	1,594.00			
		806	041574	2,337.00-			
		846	052074	743.00			
0251 0 0 DONALD H & PEGGY POOR ALLEN	2 7612	150	052377	1,063.00	7719S	59221-108-37741-70	.00
		806	041577	1,335.00-			
		846	052377	272.00			
0389 0 0 ALBERT & FRANCES PAFFF	2 0000						
53 0 0 DONALD H & PEGGY POOR ALLEN	2 7512	150	053176	7.00	7620S	59221-115-24528-69	.00
		806	041576	1,068.00-			
		576	053176	446.00			
		846		615.00			

EXAMINING OFFICER'S ACTIVITY RECORD

AGENT	DATE ASSIGNED
[illegible]	APR 9 1979

TAXPAYER	ADDRESS (If different from that on return)	PHONE NO.
Allen	116	462-8047 7712
INITIAL CONTACT WITH: NAME	**CAPACITY**	**DATE**
REPRESENTATIVE(S) NAME	**ADDRESS**	**PHONE NO.**
	South Cole 66	

SUBSEQUENT CONTACTS

DATE	PERSON CONTACTED	TIME (Hours)	REMARKS, NOTES, ACTION TAKEN
			pink envelope
			[illegible]
4/11			HAND WRITTEN "PINK ENVELOPE" DESIGNATION, PRESUMABLY BY AGENT THOMAS?
			[illegible]
4/12	[illegible]		[illegible]
	[illegible]		[illegible]
4/20	[illegible]		[illegible]

Best Copy Available

Examination Planning and Workpaper

.8 552-28-0253 59711333 ' POOR ALLEN 7906 :ACE 'L 33312 7712	Tax Auditor's Name D. Thomas	Grade GS- 9	Date
	Tax Years 1977	TP's Telephone No.	
Telephone	☐ CPA or Attorney ☐ Enrolled ☐ Witness ☐ Other		

Audit process, regular selection procedures and appeal rights explained to taxpayer?
☑ Yes ☐ Taxpayer had no questions.

, Explored or	Information Obtained and Audit Conclusions	Reported	Corrected	Adjustment
	[illegible]	2850.00	7200.00	4350.00
	[illegible]	4658.00	-0-	4658.00
	[illegible]	[illegible].00	-0-	2179.00
	[illegible]	240 00	2340 00	2100 00
	[illegible]			
	[illegible]			
	[illegible]		

☐ Form 918-A case

☐ Imported motor vehicles

☐ Incorrect information printed on examination record card

☐ "Innocent Spouse" provisions of P.L. 91-679 applicable to a portion of the deficiency (IRM 45(11)(20))

☐ Interest free adjustments on FICA, RRT, or WT taxes

☐ Jeopardy assessments

☐ Joint return, deficiency for one spouse

☐ Joint return converted to separate returns

☐ Manual refund

☐ Mitigation of the statute of limitations

☐ Statute expiration imminent (IRM 4531)

☐ Substitute for return

☐ Transferor-Transferee

☐ Termination of taxable period

☐ Two agreements on same case

☐ Unagreed-District conference requested on _____ (Date)

☐ Unagreed-No contact or no response to initial contact letters

☐ Unagreed-No response to L-45 or L-93 Letter

☐ Voluntary payment of a barred deficiency (IRM 403(26).2)

☑ Other PRO Case

X W/Coun. prepare report

If any of the above boxes are checked, this case requires SPECIAL HANDLING by Review and/or Examination Service Branch

B. Check (✓) all boxes in this section applicable to this case

☐ Bankruptcy or Receivership

☐ Closing Agreement

☐ Collateral Report

☐ Doctrine of equitable recoupment (IRM 4494 & 4519)

Fraud: ☐ Prosecution ☐ Non-Prosecution

☐ Inadequate records letter

☑ Informant's Claim for Reward

☐ Prime Issue

☐ Transferor-Transferee

Unagreed and partial agreement:

☐ Appellate conference requested

☐ No response to L-87 Letter (after responding to initial request for information)

☐ Other _____

Group Manager Identified:

☐ Jeopardy or Termination

☐ Office Examination (Audit type) _____

NOTE SQUARE CHECKED "INFORMANT'S CLAIM FOR REWARD. ALSO NOT "PRO CASE" ABSOLUTELY UNTRUE AT THE TIME. ALSO NOTE STAMPED ORDER FOR "MANDATORY REVIEW" WEHICH OBVIOUSLY WAS NOT OBEYED.

MANDATORY REVIEW

☐ Individual, Non-business

☐ Individual, business, Fiduciary or Partnership

☐ Corporation with less than $1 million assets

☐ Estate Tax

☐ Gift Tax

☐ Excise Tax

☐ Employment Tax

A-18

PINK ENVELOPE 66

EXAMINING OFFICER'S ACTIVITY RECORD

AGENT

DATE ASSIGNED 4/9

TAXPAYER Allen

ADDRESS (If different from that on return) 77 116

PHONE NO. 462-8047

INITIAL CONTACT WITH: NAME

DATE

REPRESENTATIVE NAME

NOTE " PINK ENVELOPE" NOTATION AT TOP. ALSO 'A PRO CASE" WHICH, IF REFERS TO " PROTESTOR" IS ABSOLUTELY UNTRUE AS MEETING NONE OF IRS CHARCTERISTICS FOR "PROTESTOR".

PHONE NO.

SUBSEQUENT CONTACTS

DATE	PERSON CONTACTED	TIME (Hours)	REMARKS, NOTES, ACTION TAKEN
5/7		1.5	discussed with Pat -
			Pat tried - Sent to Gp -
			Gave 5/31 & 6/5
5/15		1.5	Phone call - Pat to Gp
			[illegible]
			[illegible]
			& Pro Case -
5/24			Rec'd signed receipt back
5/24			[illegible]

V-19

Rental

Income

Inspection indicates typical unit
200 per unit - which results in additional
rental income (see Rent Expenses). Based
on info attached to rtn - have choice
of 8 rooms, 3 rooms used as rental

200 x 12 = 2400 x 3 units = 7200

reported 2850

4350

Expenses

Depr -

Both disallowed for lack of substantiation

PRESUMABLY AGENT THOMAS' HANDWRITTEN SPECULATIONS, TOTALLY ARBITRARY, ERRONEOUS AND WITHOUT FACTUAL FOUNDATION. IN SIMILAR ARBITRARY, ERRONEOUS MANDRAKE CONJURING, TAX "COURT" SPECULATED DIFFERENTLY. IRS ATTORNEYS TRIED TO MAKE A DEAL, ALSO BY SPECULATION.

HANDWRITTEN NOTATION " PINK ENVELOPE" IN SIDE MARGIN.

Please bring the records t[illegible]port the following items reported on your [illegible]et

Alimony Payments	☐ Contributions	☐ M
Automobile Expenses	☐ Education Expenses	☑ R
Bad Debts	☐ Employee Business Expenses	☐ S
Capital Gains and Losses	☐ Exemptions	☐ S
Casualty Losses	☐ Interest Expense	☐ T
Child and Dependent Care Expenses	☐ Medical and Dental Expenses	☐ U
Miscellaneous Deductions	☐ All Sales of Property	☐ U
	☐	☑

Please bring evidence such as accounting ledgers and journals, bank statement
following items shown on Schedule C:

All Business Expenses	☐ Insurance-Bring Policies	☐ T
Bad Debts	☐ Interest -Bring Loan Papers	☑ T
Cost of Labor	☐ Rents	☑ A
Depreciation-Purchase Invoices	☐ Repairs	☑
Purchases	☐ Salaries and Wages -1099,941, W-2,W-4,Payroll Records	☐ C

☐ Books and records, such as ledgers and journals, to verif
expenses shown on Schedule C.

☐ All personal and business checks written during the ye
include checks that did not clear the bank until the following

☑ Monthly bank statements for the months of December ___
January 1973 for all personal and business accounts.

☑ Passbooks or bank statements for all savings accounts, i
for savings certificates, certificates of deposit, etc.

☐ Information to show the balances at the beginning and en
all personal and business loans receivable and other amount

☐ Information to show the balances at the beginning and en
all personal and business loans and other amounts you owe.

☐ Records t A-21 antiate all accounts receivable at the end of
beginni the year.

PETITIONERS' MOTION FOR RELIEF FROM PURPORTED ORDER FOR FRAUD MISREPRESENTATION, AND OTHER MISCONDUCT AND FOR FRAUD UPON THE COURT

1. This Motion is brought under Rule 60 (b)(3) Federal Rules of Civil Procedure. Judicial attention is called to the provision that the Rule does NOT limit the power of the Court to entertain an independent action to set aside a Judgement for FRAUD UPON THE COURT, and that correction is permitted after docketing. Furthermore, "since the Rules have been in force, decisions have been rendered that the use of bills of review, coram nobis or audita querela to obtain relief...is still proper, and...still exist although they are not mentioned in the Rules." Moreover, audita querela may lie where petitioner, as in this case, had NO OPPORTUNITY to raise such matters in defense.

2. Petitioners have had no

opportunity whatsoever for any defense whatsoever, no opportunity for any FAIR HEARING, all due process having been denied, all Petitioners' pleadings, exhibits, affidavits, and evidence having been IGNORED. Petitioners must attribute this extraordinary miscarriage of justice to FRAUD UPON THE COURT. That is, documents must have been withheld from the Court by fraud, preventing the Court from fulfilling its required duty under 5 USC 706 of reviewing THE WHOLE RECORD.

3. Relief has been granted in cases in which by fraud or deception on the unsuccessful party,he has been prevented from exhibiting FULLY his case by reason of which there HAS NEVER BEEN A REAL CONTEST BEFORE THE COURT (U.S.v.Throckmorton, 98 US 61).

4. In the major case pertinent, Hazel-Atlas Co. v. Hartford Co., 322 US

238, the Supreme Court directed the Circuit to vacate,ruling that the Circuit has that DUTY and power."Even if Hazel failed to exercise due diligence to uncover the fraud, relief may NOT be denied on that ground alone."

5. The Record abundantly shows that Petitioners-Appellants have exercised "due diligence" by every means known to them but have been consistently thwarted by Respondents-Appellants' fraud, misrepresentation,and other misconduct, as is also repeatedly cited and particularly documented in pleadings, exhibits, and the record, and will again be summed below.

6. But with regard to the grave issue of FRAUD UPON THE COURT, judicial attention is specifically called to the decision of U.S. Judge Sherman Christensen in Bullock v U.S., 95 FRD 123 (1982) in which the Court reversed a decision

rendered 26 years earlier (145 F Supp 824) BECAUSE THE GOVERNMENT HAD LIED.

"I have concluded that by whatever standard or as of whatever period the circumstances found here are to be judged, they clearly and convincingly demonstrate a species of fraud upon the court for which a remedy must be granted...it is that species of fraud which does, or attempts to, defile the court itself or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its important task in adjudicating cases that are presented for adjudication.

"...conduct of government agents, acting in the course of their employment were intentionally false and deceptive...a vital report intentionally withheld and information in another report presented in such a manner as to be deceitful,

misleading, and only half true ...deliberate concealment of significant facts...by convoluted actions and in related ways the processes of the court manipulated to the improper and unacceptable advantage (of the government)...

"...answers to interrogatories intentionally misleading. The Court finds that at least one,if not more, of defendants' lawyers was party to an intentional deception...Direct evidence of involvement of defense attorneys as officers of the court is limited and fixing of overall responsibility upon any particular lawyer impossible.Yet it appears clearly and convincingly from all of the circumstances as they now appear,, and I find, that one or more of the defense attorneys knowingly participated in a program of concealment from the court

of facts which he or they knew, or in good conscience should have known, the court was entitled to have placed before it in order properly to rule upon the determinative issues of the case...

"A Court should not permit the very effectiveness of a party's improper tactics, nor even the lack of diligence of private parties,given a case of fraud on the court, to bar it from considering at any time the public interest and the imperative of safeguarding the judicial process and the court as an institution...

"This matter does not concern only private parties,There are issues of great moment to the public...Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than injury to a single litigant. It is a wrong against the institutions set up to protect and

safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with good order of society. Surely, it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agents of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud."

7. Here precisely is fingered the very definition of the evil against which Petitioners, from personal observations of totalitarianisms abroad and citing warnings of Marathon and Crowell, seek to expose: an encroachment on judiciary independence which threatens "to sap judicial power as it exists under the federal Constitution, and to establish a government of bureaucratic character ALIEN

to our system" (Crowell v Benson, 285 US 22 AT 57). All the source material on the intent of the Framers confirms indisputably that the purpose of establishing an independent judiciary was to protect the SOVEREIGN CITIZENS from just such an ALIEN takeover.As this has been the thrust of Petitioners' litigation ab initio, this is why the Supreme Court's Marathon decision of June, 1982, did in accordance with the Rules authoritatively establish the dispositive issue (Northern Pipeline v. Marathon Pipe Line6 102 S.Ct.2858 and authorities cited therein).

8. Bullock is significant not only for the deceptive tactics it exposes, which were also employed in the case at bar, but also because, as in this case, that fraud and deception were the subject of government COVER-UP, as is the ENEMY

LISTING Petitioners have fruitlessly sought to expose. Gilson's perjurous statements with regard to significance of the "pink envelope" designation are clearly impeachable by the IRS documents themselves. The significance was interpreted for Petitioners by long-time former IRS intelligence agents, now retired, but it is obvious from the fact that particular attention is called to the designation by handwritten notations on the documents themselves, which were in the record in this case as well as the District Court cases and the Tax "Court" Star Chamber session.

9. "Intentionally evasive and purposely misleading (Bullock) circumlocutions of both Gilson and Gomez are documented in the transcript of the Tax "Court's" Star Chamber. Particular attention is called to Respondents'

evasiveness and deception regarding the following facts documented by the IRS papers obtained through FOIPA and filed in the record of the instant case: (a) Persecution of Petitioners was INITIATED in the CRIMINAL investigation division. (b) It could IN NO WAY POSSIBLE have resulted from a random computer pop out as Respondents deceptively and deceitfully attempted to imply in their persistent refusal to comply with the Privacy Act; the names had never been filed or signed in that manner and the zip code was WRONG so they could not possibly have thus appeared in any routine IRS record. (c) The outright refusal, ERRONEOUSLY upheld, to disclose any information regarding the informant or his/her information, although ONLY the identity of such is permissibly protected and that questionably so in the case of a PAID informant, as the documents

prove this to have been.

10. Petitioners thus were totally denied the reserved right to face an accuser or to be fully informed of the accusation.

11. Judicial notice is here called to a 1978 decision of the parent 5th Circuit, to which this newly created Court was then a party, in Rozier v. Ford Motor Co., 573 F 2d 1332. The Court ruled that failure to disclose a document relevant to the case was prejudicial and constituted "misrepresentation and other misconduct" and that such wrongful withholding of information "sabotaged" federal trial machinery, preventing "fair contest". Without knowledge of all relevant facts, such a trial became "a game of blind man's bluff". And "instead of serving as a vehicle to ascertain the truth," such a blind man's bluff proceeding "accomplished

little more than to adjudicate HYPOTHETICAL fact" which was "imposed by SELECTIVE disclosure of information...the policy of DETERRING DISCOVERY ABUSES WHICH ASSAULT THE FAIRNESS AND INTEGRITY OF LITIGATION MUST BE ACCORDED PRECEDENCE."

12. Petitioners were DENIED ALL DISCOVERY.They were denied the reserved right to call witnesses. They were denied answers to their interrogatories (filed in the record at bar) both in the Star Chamber Tax "Court" and in the District Court.

13. Respondents have ADMITTED withholding at least five documents, which must be presumed to shed light on the source and motive for the ENEMY LISTING of Petitioners, which is proven by the documents released and filed into the record of this instant case.

14. One document obtained through

FOIA and filed into this record characterizes Petitioners as a "PRO case", presumably a "Protestor" case. This is blatant misrepresentation, as Petitioners met NONE of Respondents definitions of "Protestor." Furthermore, at the time that notation was made on that IRS document Petitioners were hardly even aware of the existence of any Tax Protest Movement. At no time prior to then had Petitioner Peggy Poor Allen written any articles criticizing the IRS. The fact is that prior to that time, the ONLY article even mentioning IRS was one for which the Jacksonville Public Relation Office THANKED her as being helpful. It was only AFTER the IRS unwarranted attack, evasion, and COVER-UP, that Petitioner began to investigate IRS criminality and publish her findings.

15. Thus, although the persecution

became SUBSEQUENTLY an IRS vendetta, because of Respondents' COVER-UP, fraud, misrepresentation, libel, evasion, and other misconduct, Petitioners remain in "a game of blind man's bluff" and have NEVER BEEN GIVEN OPPORTUNITY FOR ANY "FAIR CONTEST."

16. The issue reaches far beyond the piddling little case of just one litigant. Given the notoriously unsavory reputation of Respondents documented for decades in the Congressional Record and other official sources, it is a matter for broad public concern and alarm. Misuse of the taxing authority for suppression of political and religious dissent attacks the nation's very foundation and threatens our very existence as a self-governing Republic. That targets of such impermissible SELECTIVE prosecution appear to be the peaceful, productive segment:

independent farmers, small businessmen, Christian schools and churches, gravely endangers our economic future. Encroachment against the independence of the judiciary by a bureaucratic collectivism "ALIEN to our system," as Crowell and Marathon warn, shatters that "balance of powers" which is the keystone of our Constitution's safeguard of Liberty and Justice.

17. The arbitrary, unsubstantiated claims Respondents fraudulently conjured "Mandrake-like" from their imaginations are impermissible under the vast weight of decision, including the Circuit cases of the Lucia class, (Lucia v. U.S., 474 2d 565) as argued more fully in earlier pleadings. The fraud, misrepresentation, and intentional misleading of the Court is indicated by the article attached as Exhibit A regarding Petitioners' falsely

alleged "high-rental" neighborhood.

18. Respondents' misrepresentations regarding other magically conjured "deficiencies" and direct falsehood regarding Petitioners' alleged "failure" to show records is repeatedly impeached by the transcript of Star Chamber session, including statements from the "judge" complaining about the LARGE VOLUME of proof -- two boxes full -- Petitioners were FORCED UNDER DURESS AND THREAT to waive their CLAIMED 4th and 5th Amendment RIGHTS (NOT 'PRIVILEGES") to produce. The total not only met, but EXCEEDED, the amount Petitioners had claimed for deduction.

19. That Respondents' purpose was NOT the authorized one of collecting taxes legitimately due, but of POLITICAL PERSECUTION is abundantly manifest in the transcript of the Star Chamber session by

Respondents' nitpicking nonsensical quibbling over a missing water bill which obviously had been paid or the water would have been shut off; by refusal to recognize that the natural phenomenon of subsidence in low-lying South Florida requires repeated fill -- Petitioners' parking area is presently a lake after every rain because of insufficient funds for recent annually required filling; and other such picayune disputation for the sake of harassment. This true motivation also has been concealed from the Court by fraud, misrepresentation and other misconduct.

20. Most significantly, by fraud, misrepresentation and other misconduct, Respondents have totally ignored and evaded Petitioners' challenge to Jurisdiction, WHICH IS STILL UNMET, and Petitioners' documented charges of

Constitutional violations, also STILL UNANSWERED. (See Rutherford v. U.S., 702 F.2d 580 (5th C. 1983).

21. Respondents' deceitful attempt to disguise criminal prosecution under color of civil process is certainly fraud and misrepresentation (see Boyd v. U.S., 116 US 616).

22. As additional indication of Fraud pon the Court, Petitioners attach as exhibit a Petition refused by the Clerk. That Petition was filed because Petitioners cannot believe that ANY judge has seen THE WHOLE RECORD. (Exhibit B)

WHEREFORE, Petitioners request that the purported order be set aside.

Dated this 19 day of August, 1983.

(signed in original)
Donald H. Allen
Pro se for Petitioners
Appellants

(signed in original)
Peggy P. Allen
Pro se for Petitioners
Appellants

700 SW Fourth Place
Ft. Lauderdale Fl 33312
September 3, 1983

To:
John C. Godbold, Chief,
Judicial Council, 11th Circuit
P.O. Box 1589
Montgomery, Al 36102

FORMAL COMPLAINT AND REQUEST FOR JUDICIAL COUNCIL INVESTIGATION REGARDING IMPROPRIETIES WHICH MAY INVOLVE SUBORNING OF COLLUSION IN OBSTRUCTION OF JUSTICE

Dear Judge Godbold.

As you will see by the attached exchange of correspondence, I am instructed that request for Circuit Judicial Council Council investigation is preliminary to a complaint to the Judicial Conference.

In many letters and telegrams addressed to you I have repeatedly complained of clerical improprieties and urged investigation. I have never received response. Therefore, as I must assume that pleadings and the record are being withheld from the judges themselves,

so must I also presume that these letters and telegrams were intercepted as well. Your attention is called to seven such letters and four such telegrams attached as exhibits to a Motion filed May 17,1983, in No. 83-5129, as well as affidavits.

This letter, then, is a FORMAL REQUEST for Judicial Council investigation of improprieties at the appellate and the district levels indicating suborning of collusion.

Such improprieties and suspected collusion constitute still additional evidence of the massive COVER-UP regarding which I have for four (4) years in all three (3) branches of government sought INDEPENDENT investigation. The background of these efforts is in my letter to Judge Haynsworth attached.

My gravely alarmed purpose is to save the Republic, to restore our Constitution.

The possibly subversive undertaking I seek to expose, demonstrably from the evidence filed in your Court and at the district, goes BEYOND IRS National Office Project No. 30, questionable as that is in its violation of injunctions against ATTAINDER and RESERVED RIGHTS, particularly of the FIRST (1st) Amendment. I have, incidentally, been offered documentary evidence regarding IRS National Office Project No. 30. I also have documentary evidence regarding retention and reactivation of the ENEMY LIST exposed and denounced by the U.S.Senate in 1975. That 1975-discovered violation of injunction against ATTAINDER was said to contain 8,000 names of individuals and several hundred organizations of BOTH LEFT AND RIGHT You may recall that former U.S.Sen. Montoya was on that ENEMY LIST. IRS Commissioner

Donald Alexander testified to the subcommittee that Sen Montoya was probably ENEMY LISTED merely because he was Chairman of the Appropriations Subcommittee overseeing IRS budget requests. In the Preface to a Sub-committee report on ENEMY LISTING Chairman Sam Ervin Jr. wrote "the subversion of legitimate government authority in ways which interfere with constitutional rights is perhaps the greatest threat to our constitutional system that America faces...Our Founding Fathers realized full well that governments quickly forget that they are SERVANTS, NOT masters of the People. The creators of our nation recognized the need for eternal vigilance and established mechanisms to guard against the creation of tyrannical governmental power...vigilance must be directed...at

the agencies of government ...It is not enough that we rely on the good faith of those who administer the laws..."

Evidence in the Record presumably withheld from the judges in your Court indicates that request for ENEMY LISTING of us may have come from OUTSIDE IRS.At the time we were ENEMY LISTED,as shown by the documents, we were NOT involved in any"tax protest" group or movement.IN NO WAY did we fit any of IRS own criteria for "tax protestor".

Because of the unjustified IRS Attack on us, and even more because of the immediately following COVER-UP, suppression, and stonewalling,I began to investigate, uncover, and publicize findings of shocking IRS criminality.The continued and continuing IRS persecution may have BECOME an IRS Vendetta. But the point to be stressed is that the

persecution could NOT have originated as an IRS Vendetta because there was absolutely no reason for IRS animus against us.

This means that the request for ENEMY LISTING us had to have been prompted by vindictive spite of someone whose toes I may have stepped on and who obtained sufficient "clout" to use IRS for revenge. Failing that explanation, something far more sinister is involved.

Alas and alarmingly, the very massiveness of the COVER-UP points toward the more sinister alternative. Moreover, a nationwide pattern supports that sinister alternative. In blunt language, it is overthrow of our Republican form of government for a collectivist tyranny ---the very threat against which Senator Ervin warned.

Even more recently, the Supreme Court

in Marathon echoed that warning, especially quoting from Crowell, a case from this Circuit's parent 5th (Northern Pipeline v. Marathon Pipe Line, 102 S.Ct. 2585; Crowell v. Benson, 285 US 22). Particular concern in these cited cases was regarding the threat to JUDICIARY INDEPENDENCE, keystone of the "balance of powers" and precisely intended by the Framers to safeguard the SOVEREIGN CITIZENS against such tyrannical encroachments.

Expose of this escalating danger has been the purpose of my thwarted attempts to obtain INDEPENDENT investigation; it is the gravamen of the cases before this Court and the District; and is the thrust of this complaint and request to the Judicial Council.

The purported "Order" issuing on the Motion to which the letters and telegrams

mentioned are attached is especially suspect as spurious. It is impossible to believe that any judge could be so ignorant of the history and law and meaning of this nation as not to know that the Constitution is a contract. Throughout the notes on the Constitutional Convention, The Federalist, contemporary writings, the Constitution is referred to as a contract or compact---both law and ordinary dictionaries equate the terms. Perhaps even more pertinent to the issue of ATTAINDER, both the Virginia and Kentucky Resolutions denouncing Alien and Sedition Laws repeatedly characterized the Constitution as contract. as any judge surely must know, the Kentucky Resolution was written by Thomas Jefferson and the Virginia.a one by James Madison. Jefferson was author of the Declaration of Independence which set forth the moral

imperatives of the new nation, and Madison, one, of the Framers of the Constitution, is generally credited with its finished authorship. What better proof of the "intent of the lawmakers" could there be than this ?

THEREFORE I FORMALLY REQUEST JUDICIAL COUNCIL INVESTIGATION AT THE APPELLATE AND DISTRICT LEVELS OF CLERICAL IMPROPRIETIES AND POSSIBLE SUBORNING OF COLLUSION IN OBSTRUCTION OF JUSTICE.

Very truly yours,

/S/Peggy Poor Allen

Attachments: Correspondence between Petitioner and Judge Haynsworth.

Two newspaper articles further impeaching Respondents and demonstrating Respondents' fraud, deceit, misrepresentation, and other misconduct, and fraud upon the Court. Such perjury , moreover, violates rulings of this Circuit in the en banc decision of Lucia v .U.S., 474 F 2d 565, and similar cases, which adopted Pizzarello v. U.S., 408 F 2d 579, as well as 26 USC. Earlier such articles have been attached as exhibits, and filed with pleadings.

Distribution of this Petition is wide because of demonstrable indications of postal interference as well as clerical improprieties cited.

Crime is stalking Sailboat Bend area, commissioners told

Miami Herald Jan 5-83

By GERALDINE BAUM
Herald Staff Writer

Six runaway girls won't destroy the neighborhood, the neighbors conceded.

But residents of Sailboat Bend in Southwest Fort Lauderdale complained Tuesday that every time a halfway house or a new crop of drug dealers moves into their streets, the area further declines.

"I understand that quite a few people think we live in a slum," said Candy Thomas, vice president of the Sailboat Bend Homeowners Association. "We have high crime. Yes. We have our problems. Yes. But we're not a slum."

Fort Lauderdale city commissioners quickly bobbed their heads in agreement.

"We certainly don't see that," Mayor Rob Dressler said.

But the neighbors demanded to know what the commission has in mind for their area wedged between Broward Boulevard and the North Fork of the New River.

The Salvation Army plans to turn a duplex apartment at 825 SW Second St. into a home for six runaway girls. The girls will be closely supervised, Salvation Army officials said.

The city doesn't have any say in the matter because the Salvation Army isn't violating any zoning regulations. In fact, the neighbors said they approve of the Salvation Army's efforts.

But they're worried that the neighborhood is becoming a haven for poorly run charity homes, drug dealers and assorted off-beat religious groups.

One church group has been posting signs with religious sayings in the lawn around the church.

The School Board is abandoning its ramshackle headquarters at 1320 SW Fourth St. Rumors are spreading among the neighbors that county buses will replace the School Board buildings.

City commissioners said they hadn't heard that rumor.

Thomas complained that she has been stopped in her car several times at Second Street and SW Seventh Avenue by men trying to sell her bags of marijuana.

"This concerns us as well," said William Crabson, a captain in the Salvation Army.

The neighbors asked the commissioners if they have a specific plan in mind for the area.

Virginia Young: 'It's a very historic area.'

"Tell us now so if we have to sell our homes we can do it now before it's too late," said Charles Willard, who is building his dream house on the North Fork of the New River.

The commissioners revealed no grand scheme for the neighborhood except to say they hope to see it flourish with middle-class homes.

Commissioner Virginia Young pointed out that her husband's family built one of the first Fort Lauderdale homes in that neighborhood in 1911.

"It's a very historic area that I'm sure we'd all like to see improve," Young said.

$1,000 earmarked for mall radio ads

Commissioners agreed Tuesday to spend $1,000 for radio

Please turn to CRIME / 3B

Broward News

Wednesday, July 27, 1983 The Miami Herald Section BR

Neighborhood's change etched in blood

A-50

By JONATHAN SACKS
And JOHN MacCORMACK
Herald Staff Writers

It got hot before it started getting bloody, and Bettina Wilson thinks there might be a connection.

She remembers that the heat came down hard in mid-July, and the dingy little apartments at the River House at 601 W. Las Olas Blvd. were so sticky that sometimes it was hard to breathe. The people moved out onto the walkways and into the yards. The ground, always littered, became a minefield of crushed cans and shattered bottles.

The heat brought out some ugly moods, and even the kids dealing reefer out in front of the building started getting mean.

There were fights and there was whoring and drug dealing like there had been for a long time. Then, real violence erupted.

'Sometimes we noted a decline in activity in the neighborhood. But it always came back again.'

Police Lt. Al Ortenzo

The first bloodshed of the summer in Wilson's Fort Lauderdale neighborhood started with an argument over a drug ripoff, police say. A bullet, fired by one neighbor at another, killed an 11-year-old girl, Little Andrea Walker just got in the way.

"That's when I started thinking about getting out," Wilson says.

Then, early Saturday morning, the violence began again.

A man was shot dead in an argument in the parking lot of the Rusty Anchor bar, next door to Wilson's apartment building. Later that day, in an unrelated outburst across the street, another man was killed by three strangers on a havoc spree.

There was a time, not that long ago, that the River House and the Rusty Anchor were nice places, places frequented by lawyers and businessmen and airline stewardesses.

"I had a few drinks at the Rusty Anchor myself back then," says Chuck Willard president of the Sailboat Bend Homeowners Association.

The neighborhood changed, the buildings changed hands. Now, and for the past decade, both places have been havens for criminals, police say.

"We have conducted raids constantly in that area over the years," says Lt. Al Ortenzo. "We've made arrests for drugs, prostitution, weapons. Sometimes we noted a decline in activity in the neighborhood. But it always came back again."

Shortly after Mayor Robert Dressler was

Please turn to **NEIGHBORS / 6BR**

Fort Lauderdale News, Thursday, Sept. 1 1983

Its owner sounds the last call for 'family bar' turned violent

By Ott Cefkin
Staff Writer

FORT LAUDERDALE — The Rusty Anchor Bar, once a warm "family bar" whose fortunes declined as drug dealers and prostitutes took over its neighborhood, has served its last drink.

Mike Lipman, 52, the latest operator of the establishment that once catered to the likes of author Philip Wylie, closed the saloon at 4 p.m. Tuesday.

At police headquarters Wednesday, officers applauded.

"I can't cope with it any longer," Lipman said of the dope pushers, hookers and violence that swirled around the formerly fashionable south river section.

"I'm glad to get out without a bullet hole or a knife in me," he said. "It's been rough."

Over the years, the bar at 236 SW Seventh Ave. has been the scene of shootings, at least one homicide and arrests for drugs and prostitution. In 1980, it figured in a bombing in which a vocal homeowner-association president lost a leg.

Lipman said the bar has been a headache since he bought it a year and seven days ago.

"They were selling more dope in the parking lot than I was selling beer inside," Lipman said. "Not only wasn't I making any money, I was going bankrupt."

Lipman bought the license and assets of the bar from Ritter "Skip" Cyphers.

The property belongs to John and Eve O'Rourke, an elderly couple who live in a neatly trimmed house next to the bar, which they bought 20 years ago.

"In some ways it's a godsend," Mrs. O'Rourke said of the Rusty Anchor's demise. "Many times we wanted to close it, but we couldn't. There were leases and agreements."

"Maybe we can turn it into some offices, but I can tell you one thing, it will never be a bar again."

The bar began to deteriorate in the mid-1970s as the neighborhood, one of the oldest in Fort Lauderdale, began to decline. Soon drugs and sex were being sold openly, both in and outside the bar, and police and bar operators could do little to slow the traffic.

In 1980, the Sailboat Bend Civic Association, a group of homeowners who lived just west of the bar, initiated a campaign aimed at closing the bar and a crime-ridden apartment complex nearby.

The campaign made headlines when Richard Winer, president of the association, was nearly blown up in his truck in the summer of that year.

A-51

It is bureaucratic corruption and court leniency toward REAL criminals which has changed once quiet, pleasant, SAFE neighborhoods. Petitioner must now live behind barbed wire, padlocked chain link fences, double-bolt door locks and barred windows. I am frightened to go out after dark and even during the day always lock my car doors and roll up the windows---a 1975 Dodge 6 pickup, by the way, which shows the "High-falauting" standard of living alleged fraudulently by Respondents; and my husband drives a 1972 Ford Econoline pickup. We have put a taupolin over the leaking roof and pray a hurricane does not hit. This is the fancy high-rental--high-occupancy neighborhood fraudulently alleged by Respondents in deliberate misrepresentation and deceit of the court, as well as violation of the IRS code and rulings of *Lucia* class cases, etc. etc.

It is most unlikely that gross income for 1978 was even half as much as the wildly extortionary allegations---arbitrary, capricious, of willful bad faith and persecutory intent---dreamed up "Mandrake-like" (*Lucia*, op cit) by Respondents without even "a filament" (*Lucia* op cit) of evidence.

700 SW Fourth Place
Ft. Lauderdale Fl 33312
September 7, 1983

To:
John C.Godbold,Chief, Judicial Council,11th Circuit

ADDITIONAL EVIDENCE FOR FORMAL COMPLAINT AND REQUEST FOR JUDICIAL COUNCIL INVESTIGATION OF IMPROPRIETIES WHICH MAY INVOLVE SUBORNING OF COLLUSION IN OBSTRUCTION OF JUSTICE

Dear Judge Godbold.

The attached impertinent letter received today from a public SERVANT under your supervision supplies additional evidence of clerical improprieties and/or suborned collusion in obstruction of justice, especially in the following three particulars:

1. It makes obvious that our pleadings ARE being withheld from judges, as I have charged, preventing the Court from fulfilling its mandated duty to review THE WHOLE RECORD (5 USC 706).

2. It makes obvious that clerical public SERVANTS are arbitrarily making unauthorized decisions in violation of Supreme Court precedent as well as Circuit decisions. As our pleadings have emphasized, the ruling case regarding the issue raised as to fraud, misrepresentation, and other misconduct, is Hazel-Atlas Co.v.Hartford Co., 322 US 238, in which the Supreme Court directed action AT THE APPELLATE LEVEL.

3. Most significantly,the letter makes obvious the contumacy and perjury of these public SERVANTS in violation of the oath required of their jobs. No "Rule" may override the Constitution they swore to uphold.Article VI 2 established the Constitution as the SUPREME LAW. For nearly two centuries Supreme Court decision has upheld that CONTRACTUAL obligation. Nor may any public SERVANT

violate the injunction prohibiting trespass against the RESERVED RIGHT of the Citizens to petition.

As the Constitution is the ONLY source of authority for all government and all public SERVANTS, its violation abolishes all presumed authority. The impertinent and unconstitutional and contumacious pretensions of this letter therefore are NULL AND VOID.

Moreover, such impertinent and contumacious pretensions constitute denial of access to the Court as well as obstruction of justice.

I reinforce my request for Judicial Council investigation of these clerical level outrages and respectfully remind the Council that the Supreme Court has held "intentional inflictions of emotional distress" to be liable for punitive

damages. (Smith v.Wade, April 20,1983).

Very truly yours,

/S/Peggy Poor Allen

700 SW Fourth Place
Ft. Lauderdale, FL
33312
16 September 1983

STILL FURTHER EVIDENCE FOR FORMAL COMPLAINT AND REQUEST FOR JUDICIAL COUNCIL INVESTIGATION OF IMPROPRIETIES WHICH MAY INVOLVE SUBORNING OF COLLUSION IN OBSTRUCTION OF JUSTICE

Dear Judge Godbold.

Attached is what surely must be an example of clerical impropriety and possible suborning of collusion in obstruction of justice and denial of civil and Constitutional rights.

It is not credible that Judge Fay would authorize his *signature on a document indicating he administers a DIFFERENT justice to Arnold Rothstein than

to "an elderly couple of modest means" as Respondents have described Petitioners.

Furthermore, Petitioner happened to cover a District level firearms case over which Judge Fay was presiding at the time his appointment to the Circuit was announced. From that bench Judge Fay delivered an eloquent and moving statement on the sanctity of the Constitution and importance of the jury system as safeguard of individual liberties. It is not credible that elevation to the Circuit would have corrupted principles so strongly expressed.

Moreover, the May "decision" referenced would appear equally spurious and another example of clerical impropriety and possible suborning of collusion as it is in DIRECT CONFLICT even with the very Circuit decisions cited, UNLESS, again a DIFFERENT AND

UNEQUAL protection is afford "an elderly couple of modest means than that allowed bookies, dopesters, gamblers, alleged Mob attorneys and similar types of the Lucia class decisions.

Again, the Council is respectfully reminded that the Supreme Court has held "intentional infliction of emotional distress" to be liable for punitive damages (Smith v.Wade, April 20,1983).

Very truly yours,

/S/Peggy Poor Allen